



Memorandum

TO: COMMUNITY & ECONOMIC
DEVELOPMENT COMMITTEE

FROM: David Sykes
Julia H. Cooper

SUBJECT: SEE BELOW

DATE: November 4, 2014

Approved

Date

11/6/14

**SUBJECT: CONTRACTING WITH LOCAL AND SMALL BUSINESSES IN FISCAL
YEAR 2013 - 2014**

RECOMMENDATION

Accept the annual report on City contracting with local and small businesses for Fiscal Year 2013 - 2014.

BACKGROUND

The City has implemented various programs and ordinances since 2003 to increase and encourage small and local business participation on City contracts. The most prominent of these was the adoption of the Local and Small Business Preference Ordinance (Section 4.12.320 of the Municipal Code) on May 4, 2004. Under the ordinance, when receiving responses to solicitations for goods and services, the City of San José views those from local (within Santa Clara County) and local/small businesses (local with 35 or fewer employees) more favorably than non-local competitors while still including factors such as cost and experience.

In this report, the analysis is divided into contracts awarded by the Finance Department Purchasing Division, and construction/professional service (consultant) contracts awarded in the Capital Improvement Program (CIP) as tracked by the Public Works Department. With regard to construction contracts in the CIP, there are special considerations. By City Charter, with the exception of negotiated design-build contracts, construction contracts must be awarded to the lowest responsive and responsible bidder. There are currently no construction contract bidding preferences that can be applied toward local or small businesses. However, CIP consultant procurements are similar to any other professional service procurements in that, per Municipal Code Section 4.12.320(C), preference points are given to qualified local and small business enterprises. Although preference points can and sometimes do influence the outcome, CIP consultant procurements are predominately qualifications-based, and points awarded for experience, expertise, and project approach are the determining factors in selection.

ANALYSIS***Finance/Purchasing Awards***

As outlined in Table 1 below, in FY 13-14, the annual dollars awarded and local and small business participation has remained relatively stable from the previous year. Most of the local business awards are for maintenance and repair services that typically require a local presence in order to meet the service delivery requirements of the City.

Not represented in the Table 1 figures are the Procurement Card (P-Card) program statistics. The P-Card program is typically used to purchase one-off products of low dollar value (less than \$10,000) where a competitive process is not required. In FY 13-14, there were over 40,000 transactions totaling \$13 million. Approximately 50% of the transactions are with local merchants. Therefore, the annual impact of the program to local merchants was approximately 20,000 local purchases last year totaling \$6.5 million.

Over the past several fiscal years, staffing shortages have forced the curtailment of staff's participation in local/small business outreach events that outline how to do business with the City. In the current fiscal year, staff will work with the Office of Economic Development to identify and participate in the most relevant vendor fairs and small/local business events.

Table 1: Finance/Purchasing Contracts and Purchase Orders

	FY 11-12		FY 12-13		FY 13-14	
Dollars Awarded	\$ (in \$M)	%	\$ (in \$M)	%	\$ (in \$M)	%
All Suppliers	\$121.6	100%	\$142.6	100%	\$147.6	100%
Local Suppliers	\$40.1	33%	\$45.6	32%	\$51.7	35%
Small Suppliers	\$7.3	6%	\$8.6	6%	\$8.9	6%
Number of Awards	#	%	#	%	#	%
All Suppliers	1,444	100%	1,458	100%	1515	100%
Local Suppliers	419	29%	423	29%	409	27%
Small Suppliers	115	8%	131	9%	151	9%

Over 4,000 local and 2,500 small vendors are registered on the BidSync bid notification system.

CIP Construction Contract Data

Public Works has taken on a centralized role in construction contract procurement by performing all advertisements and bid openings, and also collects local/small contract award data for all CIP contracts. Table 2 below shows CIP construction contract activity for FY 13-14, as well as the prior four fiscal years for comparison.

Table 2: 5-Year Comparison of CIP Construction Contract Dollars and Awards

	FY09-10		FY10-11		FY11-12		FY12-13		FY13-14	
Total Dollars Awarded	\$55.9M		\$55.2M		\$58.4M		\$76.1M		\$127.8M	
Local Contractors	\$32.3	58%	\$29.2	52%	\$24.1	41%	\$36.6	48%	\$51.0	40%
Small Contractors	\$2.7	5%	\$6.2	11%	\$7.9	14%	\$10.0	13%	\$5.5	4%
Total Contracts Awarded	47		64		54		58		66	
Local Contractors	20	43%	32	50%	26	48%	20	34%	21	32%
Small Contractors	9	19%	14	22%	11	20%	7	12%	9	14%

The CIP has been trending upward recently, with FY 13-14 showing a significant increase in both construction contract awards and construction dollars awarded compared with the previous two fiscal years. For FY 13-14, while the number of construction contracts awarded rose by 14% in comparison to the prior year, the total dollar amount rose significantly from \$76.1 million to \$127.8 million, a 68% increase. Almost half of FY 13-14 projects awarded were \$1 million and above, with 3 projects above \$10 million, which contributed to the increase in contract dollars. These very large projects included two at the Regional Wastewater Facility - the Digester Gas Compressor Upgrade (\$11.3 million) and Emergency Diesel Generator Package 2A Project (\$15.3 million) - and the 2013 Relinquishment Project (\$12 million) for the Department of Transportation to resurface and rehabilitate several arterial streets.

Approximately one-third (32%) of the FY 13-14 construction contract awards went to local contractors which is below the 44% average of the prior four fiscal years. The amount of dollars to local contractors (\$51 million) was 40% of the total dollars awarded and below the 50% average of the prior four fiscal years. However, it should be noted that the two very large construction projects at the Regional Wastewater Facility mentioned above were awarded to local contractors. Small contractors (who are also local per Muni Code definition) received the same average number of contracts (9) but slightly less in award dollars (\$5.5 million) in FY 13-14 than the average (\$6.7 million) the prior four years. In general, despite the fluctuations in FY 13-14, staff believes that local contractors remain competitive in construction contract dollars and awards on average each year.

Chart 1 below shows the construction contract award data from Table 2 graphically. As illustrated, while the number of contract awards varies each fiscal year, the relative proportion of awards made to local and small contractors has remained fairly consistent.

Chart 1: 5-Year Comparison of CIP Construction Contract Awards

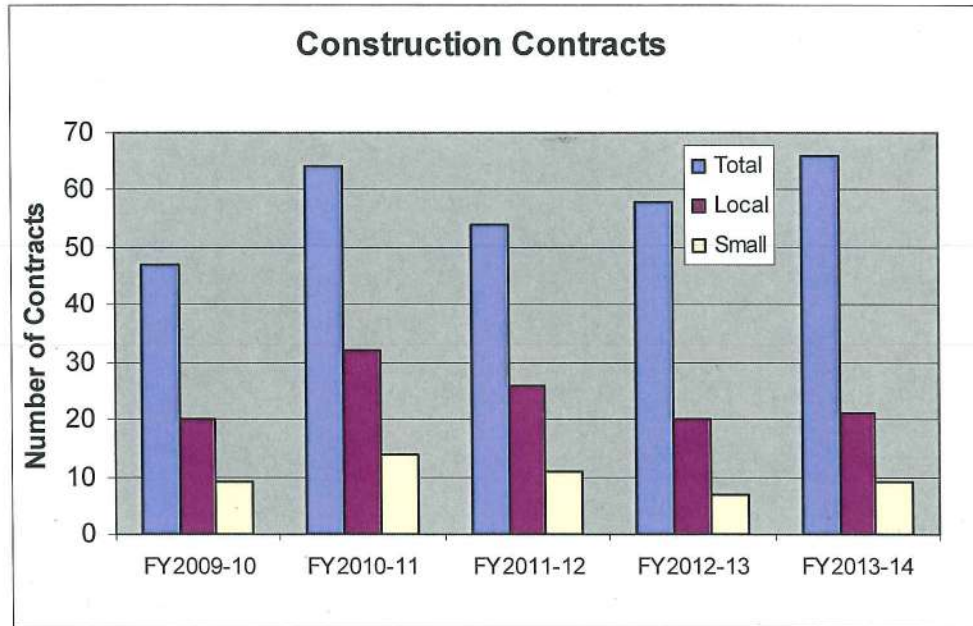
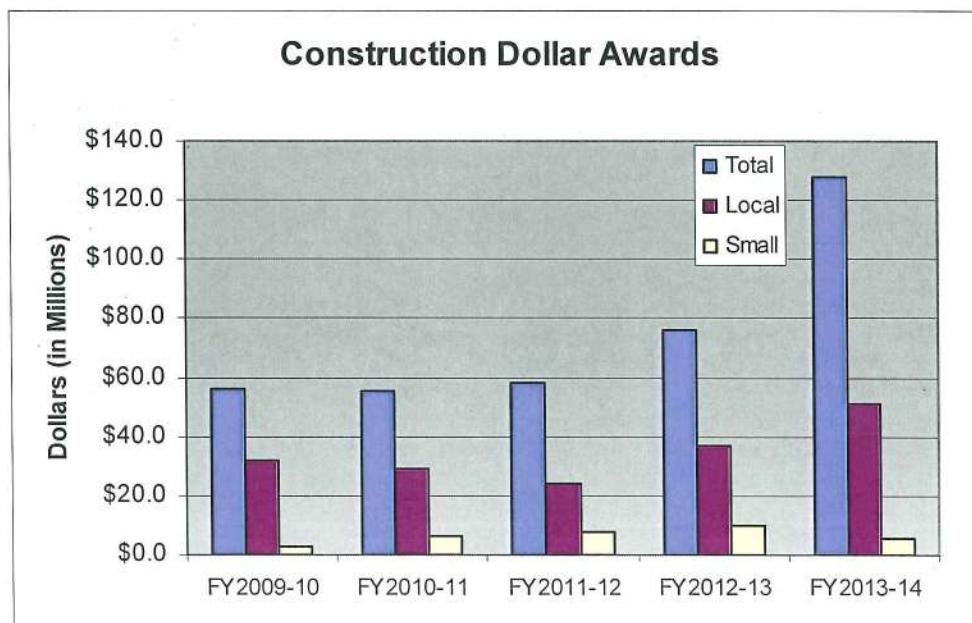


Chart 2 below shows the construction dollars awarded for the past five fiscal years. As illustrated, while the total CIP dollars vary each fiscal year, the proportion of dollars to local and small contractors has remained fairly consistent.

Chart 2: 5-Year Comparison of CIP Construction Dollar Awards



While Public Works tracks whether a construction contractor is local or small, it is important to reiterate that local and small preferences do not apply to construction contract procurements due to the Charter-based requirement to award to the lowest responsive and responsible bidder.

In general, the construction contract bidding environment has continued to be competitive, but less competitive than in recent past. In FY 13-14, the lowest responsive bids averaged about 1% below the Engineer's Estimates (versus 19% in FY 10-11, 8% in FY 11-12 and 5% in FY 12-13). It can also be said that staff estimates are improving in terms of accuracy with respect to the changing market. As another indicator of market stability, in FY 13-14, there was an average of five bidders per project which equals the average over the past three fiscal years.

CIP Consultant Contract Data

In addition to administering procurements for its CIP consultants, Public Works assists the Environmental Services and Transportation Departments with its consultant procurements, and also collects comprehensive CIP consultant local/small contract award data. Table 3 below shows CIP consultant contract activity for FY 13-14, as well as the prior four fiscal years for comparison.

Table 3: 5-Year Comparison of CIP Consultant Contract Dollars and Awards

	FY09-10		FY10-11		FY11-12		FY12-13		FY13-14	
Total Dollars Awarded	\$2.0M		\$3.5M		\$2.0M		\$17.3M		\$69.1M	
Local Consultants	\$0.4	20%	\$2.5	71%	\$1.7	85%	\$10.5	60%	\$49.3	71%
Small Consultants	\$0.4	20%	\$1.4	40%	\$0.3	15%	\$2.0	11%	\$1.2	2%
Total Contracts Awarded	6		24		13		24		34	
Local Consultants	2	33%	13	54%	7	54%	19	79%	23	68%
Small Consultants	2	33%	6	25%	2	15%	10	42%	4	12%

Consultant procurement activity tends to vary depending on project resource needs and the longevity of prior contracts. For FY 13-14, the number of consultant contract awards rose to 34 from 24 and 13 in the previous fiscal years but remains consistent with a cyclical pattern of fluctuation. In addition, the total dollar amount rose significantly to \$69.1 million from the prior 3-year average of about \$7.6 million. This is largely due to the award of the \$39 million Master Services Agreement with MWH Americas, Inc. for Program Management Consultant Services at the San José -Santa Clara Regional Wastewater Facility.

The majority (68%) of the FY 13-14 local consultant contract awards falls within the range of 33-79% seen in the prior four years. Similarly, considering the effect of the MWH Americas,

Inc. agreement, the FY 13-14 dollars to local consultants (71%) falls within the range of 20-85% seen in the prior four years. Small firms (who are also local per Muni Code definition) received contracts (4) in FY 13-14 consistent with prior 4-year average of about 5, but received a smaller portion (2%) of the dollars than in prior fiscal years due to the skewing influence of the \$39 million MWH Americas, Inc. agreement. In general, staff believes that local consulting firms remain competitive and are awarded a significantly large portion of the CIP consulting opportunities.

Chart 3 below shows the CIP consultant contract award data from Table 3 graphically. As mentioned above, there is significant annual variability to the number of consultant contracts procured in the CIP. While the awards to local and small firms fluctuate as well, they are significantly present each year.

Chart 3: 5-Year Comparison of CIP Consultant Contract Awards

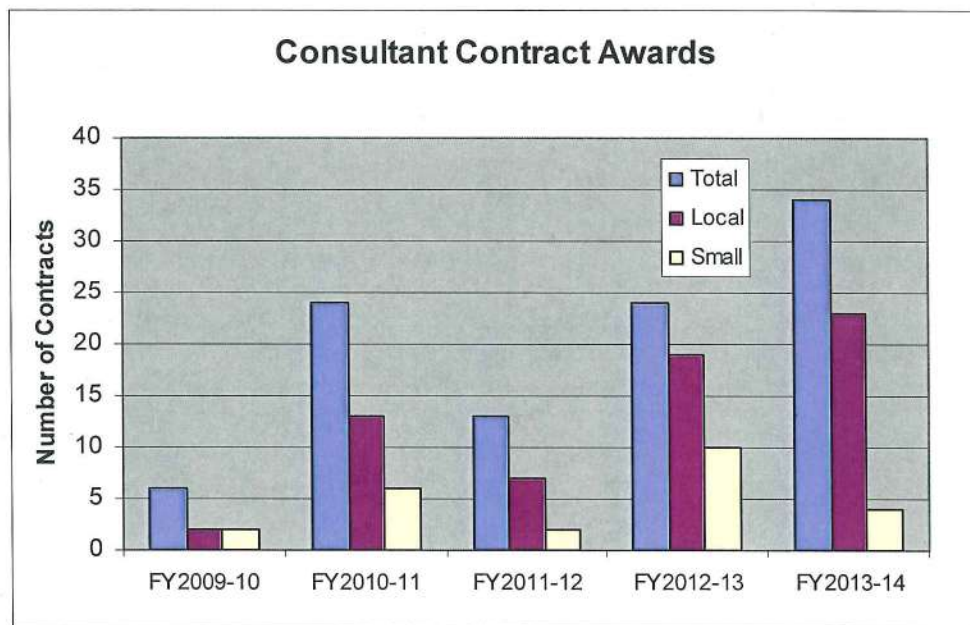
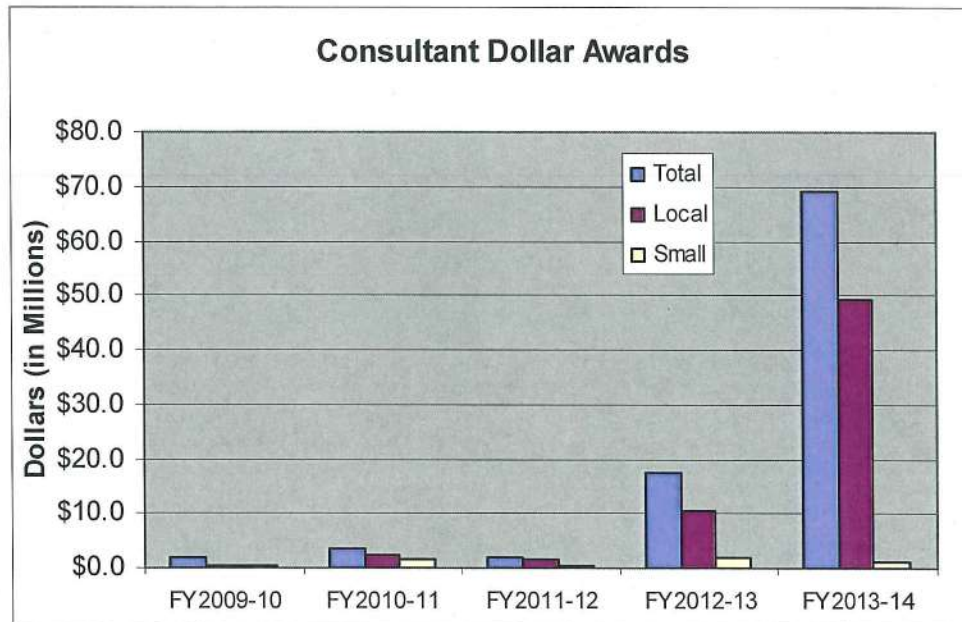


Chart 4 below shows the number of CIP consultant dollar awards for the past five fiscal years. As discussed above, the \$39 million MWH Americas, Inc. agreement contributed to a marked increase in FY 13-14 consultant dollar awards. However, because that agreement was a local award, the dollars awarded to local consulting firms, proportionally, has remained fairly consistent while small firms are below the recent average.

Chart 4: 5-Year Comparison of CIP Consultant Dollar Awards

Staff believes the Municipal Code preferences for small and local businesses have an effect on CIP consultant procurements and the consulting industry due to the fact that most consultants are aware of the preferences and many have established an office in Santa Clara County in an effort to remain competitive with other local consultants. Although, as discussed in the Background section above, procurements for CIP consultants are predominantly qualifications-based and the preference points given in accordance with the Municipal Code are generally not determining factors.

Conclusion

In considering the opportunities present to local and small businesses to contract with the City, they tend to do fairly well in successfully competing for contracts. Many of the City's CIP construction and consultant contracts are necessarily large-scale and suited for larger and well-resourced firms. The Finance and Public Works Departments will continue to track local and small business data in City contract awards in an effort to keep the CED Committee advised of participation levels.

COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE

November 4, 2014

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COORDINATION

This memorandum was coordinated with the Department of Transportation and the Environmental Services Department.

/s/
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Director of Finance

For questions, please contact Barry Ng, Assistant Director, Public Works at 535-8477 or Mark Giovannetti, Deputy Director, Finance at 535-7052.